



**U.S. Department of Justice**

*United States Attorney  
Eastern District of New York*

CRH  
F. #2008R01013

*271 Cadman Plaza East  
Brooklyn, New York 11201*

November 18, 2019

By ECF

The Honorable Kiyo A. Matsumoto  
United States District Court  
Eastern District of New York  
225 Cadman Plaza East  
Brooklyn, New York 11201

Re: United States v. Jonathan Braun  
Criminal Docket No. 10-433 (KAM)

Dear Judge Matsumoto:

The government writes in response to the defendant's motion to vacate his sentence based on ineffective assistance of counsel. See Doc Entry No. 174. The defendant argues that then-counsel was unaware of several anonymous letters that were discussed at sentencing, because those letters were sent to an email address that counsel normally did not use. As a result, counsel did not discuss the letters' contents with his client or discuss a potential response. Counsel also did not attend sentencing, instead sending an associate from his firm, who likewise was unaware of the letters prior to sentencing. The defendant argues that this conduct constitutes ineffective assistance, which caused him prejudice because the Court considered these anonymous letters when the Court imposed a ten-year sentence. Based on this claim, the defendant seeks resentencing.

The government does not concede the merits of the defendant's claims—either that the conduct constitutes ineffective assistance or that the Court actually considered the letters as a basis for the sentence. However, in light of the factual representations about then-counsel's conduct and the additional facts presented about the contents of the letters, the government does not object to a resentencing of the defendant.

Respectfully submitted,

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cc: Marc Fernich, Esq. (*counsel for defendant*) (by email)